IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1300 of 2001
With
CIVIL APPLICATION No. 1254 of 2002

AND

CIVIL REVISION APPLICATION No. 1301 of 2001
With
CIVIL APPLICATION No. 1253 of 2002

AND

CIVIL REVISION APPLICATION No. 1302 of 2001
With
CIVIL APPLICATION No. 1252 of 2002

AND

CIVIL REVISION APPLICATION No. 1303 of 2001
With
CIVIL APPLICATION No. 1251 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAKHA ADA & Others.

Versus

STATE OF GUJARAT

Appearance:

MR TV SHAH for Petitioner No. 1-2/4

Mr. Mahendra K. Patel, AGP for Respondent No. 1

MR KISHOR M PAUL for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 29/10/2002

ORAL JUDGEMENT

Heard Mr. TV Shah, ld. advocate appearing for the petitioners and Mr. Kishor M. Paul, ld. advocate for respondent No.2 in all these four matters. Earlier, this Court had passed an order on 22.10.2002 directing the respondent No.2 to remain personally present in the Court. The respondent No.2 is present in the Court today. This Court has further passed an interim order in Civil Applications No. 1251 to 1254 of 2002 directing the learned Civil Judge (SD), Porbandar to permit the applicants to withdraw 20% of the amount deposited by the respondent No.1 and lying in the Court of Civil Judge (SD), Porbandar forthwith.

2. Today, all the four Civil Revision Applications are taken up for final hearing. It appears that the ld. trial Judge has committed a very serious and grave error in passing the impugned order in directing that the 20 per cent of the amount was to be paid to the respondent No.2 towards his outstanding fees after taking necessary securities from him. The learned Judge has also committed an error in holding that the remaining 20% amount should be kept in a deposit till the final disposal of the application. This Court has initially issued Rule on 1.11.2001 and granted interim relief in terms of Para 10(B) of the Civil Revision Applications staying the operation of the order dated 17.9.2001 to the extent of payment of 20% of the deposited amount to the respondent No.2 and permitting the applicants to be represented through their Advocate Shri H.V. Dave. Subsequently, the abovereferred order was passed by this Court on 22.10.2002 in the Civil Applications preferred by the applicants.

3. Since the order passed by the trial court is not in accordance with law and in excess of its jurisdiction, the impugned order is hereby quashed and set aside. The present Civil Revision Applications are allowed. Rule is made absolute with no order as to costs. The trial court

is directed to allow the petitioners to withdraw the remaining 20 percent of the amount lying in the trial court towards compensation.

4. Since all the Civil Revision Applications are allowed, the Civil Applications filed therein also stand allowed. Rule is made absolute accordingly with no order as to costs.

rmr. [K.A. Puj, J.]